

Memorandum

TO: Blue Ribbon Task Force

FROM: Lee Price
City Clerk

**SUBJECT: COUNCIL DISTRICT / MAYOR
SPECIAL EVENT ACCOUNTS**

DATE: 11-15-04

From time to time, Council Offices and the Mayor's Office have solicited sponsorships and donations to the City to offset costs of certain City-sponsored functions and events. Some events occur year after year, such as the annual Day in the Park event which takes place in Council District 8. Other events are one-time such as the Fair Swim Center Grand Opening event in District 7 in 2003. When a donation to the City is received for such an event, the City Clerk's Office, in conjunction with the Finance Department, sets up an accounting code to track the donations for that event when they are paid into the City's Depositor's Fund. As expenses for the event occur, payments are made to the vendors and merchants providing goods and services, subject to the City's Purchasing and Finance policies for expenditure of funds. Payments are made using the same accounting code to facilitate tracking event costs against revenues received.

At the last Blue Ribbon Task Force Committee meeting, Vice Mayor Dando inquired about the history and methodology for these individual accounts. Accounts for individual events have existed for at least the last 15 years; some events are City-wide, while others are neighborhood-oriented. In 1991 the Mayor's Office solicited donations and sponsorships for a Day of Thanks celebration downtown to honor troops returning from the Gulf War. A copy of a 1998 letter from then Council Member Woody is attached apparently showing District 8's first attempt to make the Day in the Park event self supporting. While letter writing is probably the most common method of soliciting donations, Council Members with such accounts can best answer the question as to how money is raised. There is no formal disclosure process for reporting donations and expenditures for these events; however, the donor/sponsor's name often appears on publications or signs for the event, and like all other City financial transactions, the donations and expenditures are subject to audit review and public scrutiny.

Council Member Reed inquired about the relationship between the fund raising done by Council Members for special events and the City's Revenue Generating Policy. Attached for your review are copies of the Council meeting minutes of January 20 and March 23, 2004 when the topic was discussed. Included in the attachments is the Revenue Generating policy adopted by Council.

Below is a list of events which have a balance credited to the account in FY 2004-05. In some instances there is a balance because the event has not yet occurred or all the bills haven't been paid; in other instances, a remaining balance was carried forward from the last year's event. Sometimes, a balance remaining from one event has been transferred to another event. In addition to donations and sponsorships, other sources of funds in some accounts are revenue from ticket sales for the event or grant funds from Council Districts. Unused donations to these event accounts remain as a cash balance in the City's Depositor's Fund. One event not listed is the annual State of the City Convocation. Funding for that event is a hybrid of donation/sponsorships and City-appropriated general fund monies and depending on the Mayor at the time, has been either self-supporting or has used sponsorships to offset some of the costs.

		CALENDAR 2004 DONATIONS*	FY 2004-05 BALANCE**
District 1	Composting Project	\$ 1,000.00	\$ 64.72
District 1	West San Jose Festival/Resource Fair	3,000.00	5,921.00
District 1	July 4 th Event	0.00	1,000.00
District 2	Community Fest	0.00	250.00
District 3	Neighborhood Summit	0.00	1,896.30
District 3	Book Circus	2,495.83	2,495.83
District 4	Resource Fair	26,900.00	11,819.94
District 5	District 5 Summit	16,600.00	13,285.17
District 5	Cesar Chavez Event	8,306.00#	4,899.10
District 7	Other D-7 Events	1,500.00	3,984.80
District 8	Day in the Park	31,100.00	11,542.78
Mayor	Inauguration Event	00.00	2,500.00

I hope this information has been helpful and I am available to provide any additional information on these accounts.

LEE PRICE
City Clerk

* Does not include money from Council District Grants

** As of 11/12/04. For current events, balances may change daily

Includes revenue from sale of tickets to event

attachments

CITY OF SAN JOSÉ

REVENUE GENERATING POLICY

FUNDRAISING, SPONSORSHIP AND CONTRIBUTION GUIDELINES

This citywide policy is intended to provide a framework and a process to assist departments in revenue generation, fundraising, and sponsorship efforts that is consistent with existing City policies, procedures and applicable laws.

DEFINITIONS

- **Fundraising:** Any activity conducted with the intent of soliciting contributions to the City or to a particular Department or activity of the City. Fundraising activities may include, but are not limited to, City grant proposals, City responses to Request for Proposals issued by other agencies, foundations or funding agencies, endowment programs, adoption or pledge drives, and contacting individuals, companies, foundations, or other entities with the primary purpose of receiving financial support for the City.
- **Contribution:** A "contribution" to the City may consist of a donation or a sponsorship. A donation may consist of cash, a grant, real property (land) or an in-kind donation. Donations may be unrestricted or restricted by the donor.
- **Sponsorship:** A "sponsorship" typically includes the sponsor's financial contribution and involvement in a particular event, activity, or public structure, with associated recognition between the sponsor and the City for the financial contribution
- **Donation:** A contribution to the City that is made without expectation of a significant return or recognition.
- **Stock Donations:** Stocks are the proprietorship element in a corporation usually divided into shares and represented by transferable stock certificates. Per current rules the City must immediately sell stock donations upon receipt unless the stock was received through a gift or bequest with restrictions on its sale.
- **In-Kind Contributions:** A contribution of an item or object other than cash or real property, which would serve a useful purpose in the provision of City services. Examples of in-kind contributions may include equipment or materials or services.
- **Grant:** A donation typically awarded for a specific use and/or general program purpose, usually after a funding application has been submitted and approved. Grants are typically made to the City by the federal, state or county governments, private and community foundations, and corporations or businesses.

- **Donor:** A company or individual who provides the City, or one of the City departments or other agencies, an item or service without expectation of significant return or recognition.
- **Restricted Donation:** A donation made to the City where the donor has restricted its use to a specified purpose.
- **Sponsor:** A company, organization or individual who provides the City, or one of the City's departments or other agencies, and who provides funding support to the City in the form of a sponsorship, and expects recognition in return.
- **Sponsorship Agreement:** A negotiated agreement between the City and a corporate entity whereby the City makes a sponsorship opportunity available and enters into an agreement with a business to pay a fee in cash, products, services or a combination thereof, for recognition rights related to certain identified City owned commercial or marketable assets. A Sponsorship Agreement may, permit a limited form of advertising opportunity for a commercial entity in exchange for the fee paid to the City, subject to the terms of this Policy and subject to the approval of the City Manager and the City Attorney's Office.
- **Unrestricted Donations:** A donation made to the City where the donor has placed no limitation on its use.
- **Works of Art:** Includes, but is not limited to, physical art that may be an integral part of a public site or building, or that may be integrated with the work of other design professionals. Examples of public works of art include sculptures, murals and paintings, earthworks, neon, glass, organic materials, mosaics, photographs, prints, film, any combination of media forms, or hybrids of any media.

GENERAL PROVISIONS

1. Different forms of contributions to the City present different opportunities and challenges. For example, not all City-owned property will have the same practical or legal issues that should be considered when the City proposes to make a portion of that property available for contributor recognition or contributor acknowledgment. Therefore, it is not possible to establish blanket guidelines to cover all types of contributor activity that the City may decide to pursue. This policy is intended to establish a framework to guide the City Departments in establishing donation and sponsorship programs and donor and sponsor recognition policies so that the Department may properly consider and address the different economic, procedural and legal issues that may be associated with donation solicitation and donor recognition.

2. The terms of any contributor solicitation program or any contributor recognition proposed by the City must be consistent with applicable laws and City ordinances, plans and policies. These could include, but are not limited to, naming of City owned land and facilities (See Policy Number 7-5, Naming of City-Owned Land and Facilities) and the Code of Ethics (Policy Number 0-15), the City's Zoning Code (Title 20 of the SJ Municipal Code) and Sign Ordinance (Title 23 of the SJ Municipal Code), City procurement requirements, the Prevailing Wage and Living Wage Policies, Uses of Public Property (Policy Number 6-16), the California Environmental Quality Act and Long-term Use of City Parklands for Private Enterprise Purposes (Policy Number 7-8).
3. Solicitation of Sponsorship and Donations by Departmental staff shall be under the supervision of the Department Director. The City Manager's office will provide City Council a year-end report on accomplished revenue generating activities by the departments.
4. Contributor recognition guidelines shall set forth the types of donor or sponsor recognition that are available for specified donorship or sponsorship levels.

One example of property-specific issues to be considered when developing donor recognition guidelines and other contribution recognition guidelines is whether the property was funded through tax-exempt bonds. Donor recognition guidelines for such types of property shall take into account IRS regulations, among other factors specific to those properties. As a further example which is merely illustrative and not comprehensive, separate analysis may need to be conducted for proposed donation programs involving the following City property or City assets: the interior of a City-owned building with a specialized function such as a library or animal shelter, the interior of City buildings commonly used for public meetings such as City Hall or Community Centers, the exterior walls of City buildings, plazas or paseos owned by the City, City parks, City streets, sidewalks and other City public right of way, City publications and other City media productions.

Contributor solicitation programs and contributor recognition guidelines adopted by any Department shall set forth the conditions for acceptance of funds, which conditions shall be fair, impartial and shall not discriminate on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or political views of the proposed donor.

5. The Department staff designated to oversee the Department's donation activities will ensure that the proposed Donation or Sponsorship does not conflict with existing Municipal Code provisions, City policy or existing City Sponsorships. Department staff shall also ensure that the City property involved is not subject to restrictions that would limit or prohibit the proposed Donation or Sponsorship. Departmental staff shall also be

responsible for consulting with the City Attorney's Office to prepare the donation program guidelines and materials.

6. Contributions to the City will NOT provide any extra consideration to the donating party in relation to City procurements (this does not apply to a contribution which lowers the bid price of the procurement), regulatory activities, or other business and operations. This includes, but is not limited to; making donations will not improve the donating party's status as a City vendor nor the City's position with respect to regulatory issues that may involve the donating party.
7. Items contributed to the City must be safe and durable, and meet any applicable City design or quality specifications, standards, and policies.
8. The City encourages contributions of materials with the understanding that such items have a useful life, and that the City assumes no responsibility for replacement or upkeep. Once a donation is accepted, it becomes City property and the City may maintain, replace or dispose of the item consistent with any donor restrictions on a Restricted Donation. In the absence of donor restrictions, the City may maintain, replace or dispose of an item, as it deems appropriate.
9. The City cannot guarantee the tax deductibility of a Donation, but may provide the donating party with a letter of acknowledgement and a statement of the City's intended use. The City cannot validate the donor's estimate of the fair market value of a non-cash donation.
10. All Donations must be directly related to providing goods or services to the public or for another valid public purpose, and may not be used for personal gain of any person.
11. All donations in cash shall be deposited and recorded with the Finance Department and deposited in a special trust fund established by City Council or the Gift Trust Fund established pursuant to Section 4.80.700 of the San Jose Municipal Code. Currently City Council action is required to accept donations over the limit set forth in Chapter 4.04 of the San Jose Municipal Code, as it may be amended from time to time.
12. The City Manager is hereby authorized to approve Donation programs or Sponsorship Programs prepared on behalf of City Departments and to issue requests for proposals or to engage in similar donation or sponsorship solicitation activity, provided that City Council approval is required before the City (i) may accept any donation or sponsorship with a value in excess of donation or sponsorship amount that may be accepted by the City Manager under Chapter 4.04 of the San Jose Municipal Code (including a fair market valuation of in-kind contributions), (ii) grant any donor or sponsorship recognition rights with a value in excess of amount the City Manager's contracting authority as set forth in Chapter 4.04 of the

San Jose Municipal Code, or (iii) name any City property after any individual or entity.

GUIDELINES OF NET BENEFIT OF CONTRIBUTIONS TO THE CITY

1. The City may accept contributions if the contribution enhances or reduces costs the City would incur in the absence of its acceptance, or if it otherwise benefits the City in a manner that provides a net savings to the City, as further provided below, or provides a significant enhancement to the city.
2. The City Manager shall write guidelines for establishing the net benefit to the City of a Donation or Sponsorship, including, without limitation, the administrative costs of obtaining the donation, maintenance, repair and clean-up costs reasonably likely to be associated with the donated item, compliance with any restriction on the donation, and any additional potential liability that the City may assume by accepting the donation.
3. If a Contribution of personal property or of a service does not result in the City receiving the indemnification, insurance, bonding or warranties that it would normally receive through procurement of the personal property or service, the absence of those factors, and the potential costs and liabilities associated therewith shall also be considered in evaluating the net benefit of the proposed Donation to the City.
4. Any contribution that, if accepted, would obligate the City to enter into a service or procurement agreement would not be considered a donation and would be subject to the City procurement process.
5. Any Department considering acceptance of a contribution shall consult with other Departments that will be affected by acceptance of the proposed Donation. A Department shall be deemed affected by a proposed Donation if it is likely that the Department would incur additional cost or staff time if the Donation were accepted. For example, other Departments may incur costs to provide management, support, maintenance, and repair or enforcement activity in relation to the Donation or Sponsorship.
6. Restricted Donations and Restriction on other contributions shall be evaluated to determine any cost or administrative burden the restrictions impose upon the City, throughout the anticipated useful life of the Donation or contribution.

AUTHORITY TO ACCEPT CONTRIBUTIONS

All contributions will be held or deposited within the current gift trust fund policies. Unaccepted donations will be returned to the donor.

All donations made directly to the City (with the exception of grants) shall be recorded on the City's "Donation Acceptance Form."

It will be the responsibility of the respective Department Head to ensure that proper City officials are informed of Contributions, that Contributions are properly acknowledged, that timely reports are made, and that proper recognition is afforded the contributor.

City employees, whose primary responsibility is the procurement of services, supplies, materials and equipment or public works, should not engage in solicitation of Contributions. City staff shall maintain the highest standard of ethics in fundraising activities. No employee shall personally benefit from any fundraising activity on City time, and no employee shall engage in any solicitation where the employee, his or her spouse, has a conflict of interest, or the appearance of a conflict of interest would arise from the employee's involvement in the solicitation.

SOLICITATION OF CONTRIBUTIONS

1. Contributions shall not be solicited under the guise, pretense, or presumption of receiving official City endorsement of the donating party, product, or activities.
2. City employees may only solicit Contributions pursuant to an approved Fundraising work plan approved by the Director of that department, and only if the purpose of the donation is directly related to providing a good or service to the public and with the approval of the Department Director. City employees working in an enforcement or regulatory City position (i.e. Police and Fire Code Enforcement, and Environmental Services) shall not solicit Contributions from the public while they are wearing a City uniform, unless they receive explicit permission from the City Manager.

DONOR RECOGNITION

Contributions should be acknowledged in a timely manner after formal acceptance of the donation has taken place.

Before engaging in solicitation of Contributions, each Department shall develop, in consultation with the City Attorney's Office, guidelines specifying the type of contributor recognition to be granted for different types of Contributions and for different contribution amount, that shall include the size and location(s) of any signage and the permitted text of the signage. The City Manager shall review and approve any Departmental guidelines regarding donor solicitation and donor recognition and shall seek to instill consistency among the departmental donation guidelines.

The City department receiving the benefit of the contribution must review and approve any presentment of public recognition for that contribution. Recognition should be consistent with the Municipal Code and other laws and regulations, and with the City's current policies and Donation Guidelines. If, in the interests of public health, safety and welfare, a Department desires to prohibit certain types of Contributions, the Department

shall consult with the City Attorney's Office to determine whether the donation guidelines may contain such prohibitions. Contributions and contributor recognition may not be comprised of obscene or pornographic material.

The following provisions shall also apply:

- **Real Property Contributions**

Restricted Contributions of real property may be made to the City for specified purposes. The City will review the conditions of the restrictive Contributions and determine if the benefits to be derived warrant the acceptance of the Contributions. All real estate Contributions, no matter how small, require City Council approval after proper investigation and due diligence is conducted by staff.

- **Works of Art Contributions**

If a contribution is proposed related to a work of public art covered by the City's Art in Public Places ordinance, currently found in Chapter 22.08 of the San Jose Municipal Code, the City's review and acceptance of public art the proposed contribution shall be conducted in accordance with the City's Art in Public Places ordinance, which shall include the review and recommendation of the City's Arts Commission. Any time a donation of a work of art or a contribution toward the acquisition of a work of art that would not ordinarily be covered by the City's Public Art Ordinance is proposed for the City, the City Department that operates or maintains the site of the proposed work of art shall submit the proposed donation to the Arts Commission for the Arts Commission's recommendation regarding acceptance of the proposed donation of public art.

- **Interior Naming Opportunities**

City Council Policy 7-5, "Naming of City-Owned land and Facilities" states that, "the City Council reserves the right, as part of a capital campaign, to make appropriate business arrangements in exchange for naming options of City facilities."

Naming opportunities for interior rooms or spaces may be an essential strategy for capital campaign fund raising. At the onset or during a capital campaign, staff in the respective department will work with City Attorney's Office in order to determine the restrictions, including without limitation federal tax law restrictions related to naming opportunities. Assuming that it is determined that naming opportunities may proceed, the Department will work with their constituencies to develop a list of the significant interior naming opportunities and corresponding giving levels. Interior naming opportunities may also be offered at existing facilities. The respective Department Head will submit the list to the City Manager, for approval.

Selection of the Appropriate Donor or Sponsor

If a Department makes a sponsor or donor recognition opportunity available to outside persons or entities pursuant to these guidelines, the City department shall select the donor or sponsor providing the highest net benefit from the Contribution to the City, along with consideration of the quality of product or service to be received by the City.

- The selection shall be impartial, and compatible with other city Donation or Sponsorship relationships.
- All donation or sponsorship opportunities to be offered and solicitations sought by City Departments shall be reviewed by the City Manager's office or designee in advance of the offering to ensure consistency with these guidelines, and to ensure that the granting of a donation or sponsorship opportunity does not result in preferential treatment of the sponsor, and to avoid a conflict with existing contracts.
- No action shall be taken which gives the appearance that persons or entities that do not sponsor City programs, events, venues or activities are treated less favorably than those who do, or are at a competitive disadvantage in conducting their business with the City.

Sponsorship and Donation Agreements

After the selection of a donor or sponsor by the City Council, City Manager or Department Head, as appropriate, is complete, the respective obligations of the sponsor or donor and the City shall be set forth in a written agreement approved as to form by the City Attorney with the exception that unrestricted cash donations do not require a formal written agreement.

Each sponsorship agreement shall not exceed a term of one-year unless approved by City Council. Annual renewals, at the City's option, are permissible provided the entire term of an agreement with all renewals does not exceed five (5) years except as provided below. Any renewal shall be subject to annual appropriation of City Council if City funding is involved. Sponsorship Agreements or donation agreements involving City parks may also be subject to the three-year term limitation of Section 1700 of the City Charter.

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ACCOUNTING AND RECORD KEEPING:

Departments shall maintain records that provide an audit trail for the receipt of all Sponsorships and Donations. Departments shall also comply with the following requirements:

1. All Donations or sponsorships and the revenue, products, donations and services received shall be recorded and maintained for at least the expected life of the donation item or service, or for a specific time frame that has been established.

2. The City's internal determination of the net benefit to the City is solely for the City benefit in evaluating whether to accept or reject a donation, and may not be used by or relied upon by outside parties. The City shall document and maintain records of the anticipated net benefit from the Contribution.
3. Sponsorships paid for with a monetary contribution, shall only be paid for by check payable to the City of San Jose. Acceptance of cash will only be allowed if approved, in advance, by the Department Director.
4. A record of all sponsorships and donations including name, type, contact name if a company, amount, and disposition of sponsorship shall be kept up-to-date and accurate.
5. All funds, products, services, etc. resulting from the Sponsorship program or donations shall be used within the sponsored department with the exception of cross departmental or "citywide" sponsorships or other citywide contributions, or as directed by the City Manager. All funds, products, services, etc. resulting from a "citywide" contribution not specified for a specific program shall be designated for use by City Council, which designation may be made by resolution, approval of an agreement or through City Council appropriation action or other appropriate means of Council approval.
6. All funds generated by Contributions, must be appropriated by City Council prior to being spent by City departments.

Council Minutes Excerpt 01-20-04

10.1 Adoption of a resolution by the City Council approving the Revenue Generating Policy and directing the City Attorney to draft an ordinance to amend the San José Municipal Code as necessary to implement the policy, including increasing the City Manager's authority to accept donations and approve sponsorship agreements up to a maximum of \$100,000. CEQA: Not a Project. (City Manager's Office/ Redevelopment Agency)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated January 14, 2004, recommending adoption of said ordinance, and direction to City Attorney to draft said ordinance to amend the San José Municipal Code.

Discussion/Action: Deputy City Manager Jim Holgersson gave a slide presentation on the Revenue Generating Policy. He introduced Deputy Director Parks, Recreation and Neighborhood Services Joe Cardinalli.

Mayor Gonzales asked what cities has Staff modeled its program after in terms of sponsorship, solicitation and contributions; and in regard to solicitations, how will Staff coordinate that so the departments will not be competing against one another. Deputy City Manager Holgersson replied a sponsor could range from a company who wants, for example, to sponsor the animal services by donating animal food, or if the City were to name a component of a building after a sponsor, they would in fact make a contribution. He stated in terms of coordination, the City Manager's office would, through the Task Force, coordinate any type of agreement or relationship, and would closely monitor the communication between a potential sponsor, and the department to ensure impartiality was occurring, and that policies were being met.

Council Member Reed remarked this program does not seem to reach out and cover Council Staff, as they are often involved in fund raising activities, events and festivals, and asked what it would take to include Council Staff in this process. Deputy City Manager Holgersson replied Staff focused this endeavor more on a structure for the employees that report to and through the City Manager's office, but Staff could team up with Council Staff or Council Members if ideas come forward and provide the support for opportunities of sponsorship or fund raising.

Council Member LeZotte asked what kind of criteria would Staff have for corporations the City does not want to have as sponsors. Deputy City Manager Holgersson replied there are departments that have already faced that, for example the Airport, which has very strict criteria that provides the framework, thus Staff would endeavor to best frame generally what in fact would be acceptable sponsors. He stated there is also the opportunity to open up a bidding competition, so the best proposals could be reviewed and approved. Deputy Director Joe Cardinali stated the challenge is Staff cannot combine everything into one guideline or policy, thus each department will have that ability working with the City Attorney's Office to develop their own strategy and guidelines. Council Member LeZotte inquired whether the City has been deluged with requests in regard to the interior naming. Deputy City Manager Holgersson replied no but Staff has not been overly aggressive about it, however one exception is the Library. He stated the intention would to be more deliberate, more aggressive in terms of identifying potential sponsorships and partners.

Council Member Chavez remarked that Economic Development was not mentioned as part of the team in terms of developing this, and expressed concern as it relates to naming and opportunities, stating this effort should be a work in progress until Staff figures it out, and also incorporates an opportunity to be very deliberate in terms of naming, and how this blends with economic development strategy. She stated upon reviewing this document, it was not clear whether or not there was a connection to this revenue generating policy and the City's strategies, as it relates to writing grants with the public sector. Deputy City Manager Holgersson replied the grant process is in another tract in terms of resources being

committed to identify new grant opportunities, and the grant central approach where Staff coordinates that to a great extent, and drives it. He stated this particular policy is more at the sponsorship and the fund raising side. Council Member Chavez asked how is it connected, and who is responsible for speaking to the various companies. Deputy City Manager Holgersson replied the connection is through the City Manager's office, but each Department Head is also part of this effort to enable communication and coordinate opportunities, however they are two different processes. Council Member Chavez remarked it is difficult to see how this blends, and it may be a good direction but expressed concern about the marketing and fund raising, and the fact that there is not full time staff focused on bringing in revenues. Deputy City Manager Holgersson replied grants are usually specific about what they can be applied for and to a great extent they tend to be more programmed driven, and Staff sees opportunities with the sponsorships and the fund raising to fill some of the voids on the maintenance side. He stated it relates to what are the gaps the grants do not usually provide for the City, and what are the other opportunities to meet some of the needs required for city service delivery.

Council Member Cortese remarked if the City Manager has \$100,000 in authority, asked does that mean it is exclusive authority to him. City Attorney Richard Doyle replied the City Manager has the authority to accept up to \$5,000, which would be extended to \$100,000. He commented although individually the Mayor does not have that authority, the Council may authorize up to any amount, but it does not preclude the Council from accepting a gift. In reference to Item 10, on Page 4 of the policy, Council Member Cortese commented it states that "all donations must be directly related to providing goods or services to the public or for another valid purpose and may not be used for any personal gain of any person", asked what does that entail. Deputy City Manager Holgersson replied the City of San José should not accept any kind of contribution if it is not for the public purpose, and no one within the organization of the City can have any kind of direct personal gain from any sort of relationship that occurs as the result of a sponsorship or fund raising. City Attorney Doyle commented the idea is that there is no financial gain, which would be a conflict of financial interest.

Council Member Williams asked if Staff is moving the level down into the actual departments to have their staff be a tool in order to obtain donations, grants, and sponsorships. Deputy City Manager Holgersson replied the purpose of this is to create a framework that provides a clear definition of how to proceed, and to empower the departments to go out and seek those opportunities identified, but to work closely with the City Manager's office and the City Attorney's Office ensuring Staff has framed the final product in its proper structure. Council Member Williams expressed concern about a return on the investment, however agreeing on the pursuit of grants, which is an option Staff should pursue more, as it allows the City more flexibility in terms of what is done with its resources. He remarked on Page 6, Item 2, Solicitation of Contributions, it states, "City employees may only solicit Contributions pursuant to an approved Fundraising

work plan approved by the Director of that department, and only if the purpose of the donation is directly related to providing a good or service to the public and with the approval of the Department Director”. He commented this is another step of the City of San José taking the responsibility to look at ways to generate resources locally, which will decrease the amount of dependency on the State and Federal governments.

Vice Mayor Dando cautioned that although sponsorships offer the opportunity to build relationships, the relationships can very often be self-serving, especially with those companies and businesses that the City of San José conducts business with. She remarked usually there is an expectation when a relationship is developed, and the City of San José should not give that type of perception.

Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Council Member Gregory moved approval of the Staff recommendation. Council Member Cortese seconded the motion. Council Member Reed requested the City Attorney to return to Council with ideas of a similar policy that deals with involving the Council Staff and their funding raising events under this ordinance. Council Member Gregory, the maker of the motion, and Council Member Cortese, the seconder of the motion, accepted the amendment to the motion by Council Member Reed.

Mayor Gonzales remarked the precautions from this discussion are quite appropriate, and one of the items Staff will find as City departments approach the various companies, that Staff will be speaking to the people whose job it is to protect the reputation of their company’s logo. He expressed concern because it appears there is no one coordinating or managing this endeavor, and requested the City Manager look at this. He remarked the protection of one’s logo is a mutual relationship, and the City has to be very careful as to its associations.

On a call for the question, the motion carried unanimously, and Resolution No. 71932, entitled: “A Resolution of the Council of the City of San José Approving a Revenue Generating Policy and Directing the City Attorney to Draft an Ordinance Implementing the Policy”, was adopted, with the City Attorney directed to develop a draft Council Revenue Generating Policy as proposed by Staff, and in addition, the City Attorney was directed to return to Council with ideas for a similar policy regarding Council Staff and their fund raising events. Vote: 11-0-0.

Council Minutes Excerpt 03-23-04

10.2 (a) Approval of an ordinance by the City Council modifying Section 4.01.010 of Chapter 4.01, and amending Sections 4.04.010 and 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code, making

- changes necessary to implement the Revenue Generating Policy adopted by City Council on January 20, 2004;**
- (b) Adoption of a resolution by the City Council revising the Revenue Generating Policy pursuant to City Council direction at the meeting of January 20, 2004;**
 - (c) Adoption of a resolution by the Agency Board approving the Redevelopment Agency's Revenue Generating Policy; and**
 - (d) Adoption of a resolution by the Agency Board amending Article II, Section 4.A of the Agency By-Laws to authorize the Executive Director to accept donations and enter into Sponsorship Agreements in an amount not to exceed \$100,000.**
- (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 11, 2004, recommending approval of said ordinance and adoption of resolution by the City Council, and adoption of resolution by Redevelopment Agency Board.

Discussion/Action: Council Member Chavez moved approval of the Staff recommendation. Council Member Cortese seconded the motion. Council Member Reed remarked when this issue was discussed earlier the City Attorney was given direction to take a look at how this policy should apply to the Mayor and the Council, and pointed out a provision in Item 13 which is unworkable and does not reflect the way the City Council and the Mayor's Office is involved in sponsorships and fundraising. He commented it calls for the Council to tell the City Manager of a potential donation or sponsorship opportunity, and the City Manager is supposed to take over. He remarked that he, his staff and other Council Members are currently in the process of organizing the Resource Fair for June, and are also doing the work, and raising the money. He expressed concern to the lack of an audit trail for what the Council and Mayor may do for sponsorships, and the way to deal with this issue is to take the same auditing and accounting requirements that are listed, including a record keeping of sponsorships of the name, type, size, contract, and including an annual report, which the City Manager is required to do for staff sponsorships. He commented the Council Members could keep track of sponsorship donations collected and complete an annual report. He asked if the maker of the motion would accept this amendment. Council Member Chavez, maker of the motion, accepted the amendment.

City Attorney Richard Doyle commented the whole idea of this issue going through the City Manager's office is that there are criteria for the City Manager to continue to consider in determining whether there is a net benefit to the City for any program. He added Staff would have the same policies apply to the Mayor and Council Offices. He stated Council can make the call, but at some point there should be some determination that there is a benefit to the City, including Council Offices. City Attorney Doyle asked how would Council prefer Staff to proceed on those grounds, whether the Council prefers to independently have their offices go

out and do fund raising without anyone signing off. He remarked whether that is within City policy, and meets the criteria or is a benefit to the City, ultimately that is the Council's goal, but the idea was to be able to bring it into some type of process. He added that was the only reason it was going to go through the City Manager's Office because they are set up for that, but Staff is open for other ideas.

Council Member Reed remarked the Council Offices do that now, wanting to raise money for an event, they go out and just do it. Mayor Gonzales remarked that the City Attorney raised an interesting point, but on the other hand, the reality of the City Manager telling a Council Member that their effort is not consistent with City policy or no value to the City, is unrealistic. Council Member Reed commented when Council Offices go out and ask for money, it is hard to imagine that getting money is not a net benefit to the City for something, it is different than the sponsoring and selling of the logo on the building. City Attorney Richard Doyle replied the only concern that came up in development of the policy was determining that there is a City benefit as opposed to raising funds for instance a third party, a nonprofit corporation. He added that is a completely different set of rules, and those need to be looked at independently. He stated Staff could put that in the body of a policy, that the program or the fund raiser is a benefit to the District or to the City, and that each Council Office is participating. He stated he does not want to be in a position where the Council Offices do not have an audit trail that may need to be reported to the Fair Political Practices Commission (FPPC), and there are certain fund raisers that are for the benefit of third parties.

Mayor Gonzales remarked that the bottom line is this will come back to the Council Members for self discipline, and guidance against the policy and the criteria. He pointed out it is up to the Council Members to be able to substantiate to and answer to his or her constituents, and state this money is being raised because it is consistent with the criteria that is in policy, and is for the good of the community overall. He stated the current recommendation puts the City Manager in a very awkward situation, and agrees with Council Member Reed. Council Member Reed replied his amendment is basically the audit trail, and keeping track of it, making an annual report, and "piggybacking" on the City Manager's Report. Council Member Cortese asked how would that be implemented. Council Member Reed replied each Council Member keeps his or hers' own log, and it is incorporated into the annual report put forth by the City Manager. Council Member Cortese, seconder of the motion, accepted the amendment.

Council Member Gregory asked for a clarification, as currently his understanding of the policy is that if Council Offices are doing fund raising, it is tracked through City Clerk's office through a special account. He added that event for which the fund raising is happening, has to be an event that is a collaboration between the Council Office and a department, and he understood the Council Offices cannot raise money for event that a Council Office by itself is doing, and asked for an explanation. City Attorney Richard Doyle replied the Clerk's Office serves as the

escrow, essentially the paying agent, and the money comes through the City Clerk's office, and serves as the collector and distributor of the funds.

Vice Mayor Dando remarked she would like to make a substitute motion, as this is a very important issue it should be referred to the Blue Ribbon Task Force Committee, which is chaired by Council Member Yeager, and for the Council Offices to obtain more detailed information for consideration and discussion. Council Member Yeager seconded the motion.

Mayor Gonzales asked if there were questions on the substitute motion. Council Member Chavez asked if the majority of this item will move forward, with the exception of the part that pertains to the Council Members, so that Staff can start working on the budget. City Attorney Richard Doyle replied the motion is that the City Staff portion of this policy moves forward, and the Council portion of it is referred to the Blue Ribbon Task Force. Council Member Chavez encouraged her colleagues to support the motion. Council Member Williams asked whether the maker of the substitute motion included that Staff move forward with the Staff portion of the policy, and Mayor Gonzales replied that is correct. Council Member Williams asked what is Staff trying to resolve. City Attorney Richard Doyle replied there is a number of potential revenue generating opportunities for the City to engage in, and Staff is attempting to develop a policy, whether it is looking at or assisting with landscaping, parks, libraries, or other opportunities. He remarked the question came up at the last meeting, as to how does that apply to the City Council, and its fund raising abilities as well.

On a call for the question, the motion carried unanimously, and Ordinance No. 27103, entitled: "An Ordinance of the City of San José Amending Section 4.01.010 of Chapter 4.01, and Amending Sections 4.04.010 and 4.04.020 of Chapter 4.04 of the San José Municipal Code to Increase the Authority of the City Manager to Accept Donations and to Approve Sponsorship Agreements in Order to Implement the City's Revenue Generating Policy", was passed for publication; Resolution No. 72014, entitled: "A Resolution of the Council of the City of San José Revising the Revenue Generating Policy Pursuant to City Council Direction at the Meeting of January 20, 2004"; and the Redevelopment Agency Resolution, were adopted, with Item 10.2(d) to return to Blue Ribbon Task Force Committee for discussion, and Staff was directed to incorporate into the Annual Report each Council Member's District log of sponsorship donations collected. Vote: 11-0-0.